

U.S. Patent Application Serial No. 10/708,496
Amendment filed September 25, 2007
Reply to OA dated June 25, 2007

REMARKS:

Claims 1-6 are pending, of which claims 1, 5, and 6 have been amended herein.

A. The Examiner has rejected claims 1-6 under 35 USC § 103(a) as obvious over U.S. Patent No. 5,684,956 (**Billings**) in view of U.S. Patent No. 5,479,613 (**Geyer**).

Applicant respectfully traverses this rejection, for the following reasons.

When the Examiner fails to establish a *prima facie* case, the rejection is improper and will be overturned. *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988).

There are substantial, important differences between the art relied upon by the Examiner and the features set forth in the claims at issue.

For example, regarding claim 1:

Billings and **Geyer**, alone or in combination, fail to describe, teach, or suggest the following features set forth in claim 1, as amended: “a control means for managing a parameter incremented whenever the idle time unit is detected as a result of count-up by said counting means and creating a transmission frame when said parameter is equal to said node ID of said information processing terminal,” in combination with the other claimed features.

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Regarding claim 5:

Billings and **Geyer**, alone or in combination, fail to describe, teach, or suggest the following features set forth in claim 5, as amended: “A method for providing a transmission privilege to each of a plurality of nodes one at a time, said plurality of nodes being connected on a network, comprising the steps to be carried out by each of said nodes of: detecting whether said network is busy or idle, repeating count-up to reach an idle time unit if said network is idle, and incrementing a parameter whenever said idle time is detected; transmitting the transmission frame inclusive of the node ID if said parameter agree with the node ID,” in combination with the other claimed features.

Regarding claim 6:

Billings and **Geyer**, alone or in combination, fail to describe, teach, or suggest the following features set forth in claim 6: “A computer-readable transmission privilege acquisition program loaded in a node which can transmit a signal onto a network to which a plurality of nodes are connected when each node acquires a transmission privilege, said program causing a computer to execute: processing of detecting whether said network is busy or idle; processing of repeatedly counting to reach a idle time unit if said network is idle; processing of incrementing a parameter whenever said idle time is detected, thereby creating a transmission frame inclusive of the node ID if said parameter agree with the node ID,” in combination with the other claimed features.

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Applicants submit that it would not have been obvious to combine/modify **Billings** and **Geyer** in order to arrive at the features set forth in claims 1, 5, and 6.

In view of the above, the Examiner has not yet established a *prima facie* case of obviousness. But it is the burden of the Examiner to do so. The U.S. Patent and Trademark Office has the burden of proof to show that an applicant is not entitled to a patent if the claimed subject matter is anticipated by, or is obvious from, the art of record. A patent applicant is entitled to a patent "unless" the U.S. Patent and Trademark Office establishes otherwise. See, e.g., *In re Dembiczak*, 175 F.3d 994, 1001 (Fed. Cir. 1999); *In re Epstein*, 32 F.3d 1559, 1564 (Fed. Cir. 1994); *In re Rijckeart*, 9 F.3d 1551, 1552 (Fed. Cir. 1992); *In re Fine*, 837 F.2d 1071, 1074 (Fed. Cir. 1988).

In view of the foregoing amendments and remarks, it is respectfully believed that essential elements of a *prima facie* case of obviousness are missing. The art does not describe, teach, or suggest the combinations of features as set forth in claims 1, 5, and 6. Applicants respectfully submit that the Examiner has not established a *prima facie* case regarding claims 1, 5, and 6.

Accordingly, in view of the above, Applicant respectfully submits that this rejection of claims 1, 5, and 6 should be withdrawn. It is submitted that this rejection of claims 2-4 should be withdrawn by virtue of their dependency.

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B. The Examiner has rejected claims 1-6 under the second paragraph of 35 USC § 112 as indefinite.

Applicant respectfully traverses this rejection, for the following reasons.

Regarding **claim 1**, the Examiner has suggested that aspects relating to “creating a transmission frame” are unclear. Claim 1, as amended herein, is believed to have enhanced clarity and definiteness. Accordingly, Applicant respectfully submits that this rejection of claim 1 should be withdrawn.

Regarding **claim 2**, the Examiner has suggested that the term “default node ID” is unclear. Claim 2, as amended herein, is believed to have enhanced clarity and definiteness. Accordingly, Applicant respectfully submits that this rejection of claim 2 should be withdrawn.

Regarding **claim 3**, the Examiner has suggested that aspects relating to “node ID” are unclear. Claim 3, as amended herein, is believed to have enhanced clarity and definiteness. Accordingly, Applicant respectfully submits that this rejection of claim 3 should be withdrawn.

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Regarding **claim 4**, the Examiner has suggested that the format is improper. Claim 4, as amended herein, is believed to have enhanced clarity and definiteness. Accordingly, Applicant respectfully submits that this rejection of claim 4 should be withdrawn.

Regarding **claim 5**, the Examiner has suggested that the term "rounding" is not a standard term used in the art. Claim 5, as amended herein, is believed to have enhanced clarity and definiteness. Accordingly, Applicant respectfully submits that this rejection of claim 5 should be withdrawn.

Regarding **claim 6**, the Examiner has suggested that claim 6 is indefinite because there are "no details of how the frame is created." Applicant respectfully disagrees with the Examiner. Claim 6 sets forth "creating a transmission frame inclusive of the node ID if said parameter agrees with the node ID," in combination with the other claimed features. All features set forth in claim 6 are clear and definite, with adequate detail set forth regarding the transmission frame and other features. Accordingly, in view of the above, Applicant respectfully submits that this rejection of claim 6 should be withdrawn.

Accordingly, in view of the above, Applicant respectfully submits that this rejection of claims 1-6 should be withdrawn.

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If, for any reason, it is felt that this application is not now in condition for allowance, the Examiner is requested to contact the Applicant's undersigned attorney at the telephone number indicated below to arrange for an interview to expedite the disposition of this case.

In the event that this paper is not timely filed, the Applicant respectfully petitions for an appropriate extension of time. Please charge any fees for such an extension of time and any other fees which may be due now or in the future with respect to this application, to Deposit Account No. 01-2340.

Respectfully submitted,
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